



General Assembly

February Session, 2000

Raised Bill No. 5746

LCO No. 2010

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

An Act Concerning Voluntary Binding Arbitration In Private Mental Retardation Agencies.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 (NEW) (a) As used in this section:
- 2 (1) "Employer" means any state-supported private institution that
3 provides residential care to persons with mental retardation.
- 4 (2) "Employee" means any person engaged in service to an
5 employer.
- 6 (3) "Employee organization" means any lawful association, labor
7 organization, federation or council having as a primary purpose the
8 improvement of wages, hours and other conditions of employment
9 among employees.
- 10 (b) Not later than ten days after an employer and an employee
11 organization agree, in writing, to submit unresolved contract issues
12 pertaining to an original or successor collective bargaining agreement
13 to arbitration, the parties shall jointly select an arbitrator. The person
14 selected shall have substantial, current experience as an impartial

15 arbitrator of labor-management disputes. If the parties fail to agree on
16 an arbitrator within the ten-day period, the selection shall be made
17 using the procedures under the voluntary labor arbitration rules of the
18 American Arbitration Association.

19 (c) (1) The arbitrator selected shall contact the parties to schedule
20 dates and places for hearings which shall commence not later than
21 twenty days after the selection of the arbitrator. At least ten days prior
22 to each such hearing, written notice of the designated time and place of
23 such hearing shall be sent to the employer and the employee
24 organization. The arbitrator shall preside over such hearings, shall
25 have the power to take testimony, to administer oaths and to summon,
26 by subpoena, any person whose testimony may be pertinent to the
27 proceedings, together with any records or other documents deemed by
28 the arbitrator to relate to such matters.

29 (2) The hearings may, at the discretion of the parties or the
30 arbitrator, be continued and shall be concluded not later than thirty
31 days after their commencement, unless such period is extended by the
32 joint request of the parties or by the arbitrator.

33 (3) Prior to the commencement of the hearings, each party shall
34 submit to the arbitrator three copies of a list of all resolved and
35 unresolved issues, including the party's proposal on each disputed
36 issue. During the hearing no new issues may be considered unless
37 such addition is mutually agreed to by the parties. Upon receipt of
38 both such lists, the arbitrator shall simultaneously distribute a copy of
39 each to the opposing party. Upon the hearing, each party shall present
40 such testimony and other evidence as it deems appropriate and as the
41 arbitrator finds relevant to the issues presented. Evidence as to each
42 disputed issue shall be presented first by the party presenting the
43 demand underlying such issue. At any time prior to the issuance of the
44 award by the arbitrator, the parties may jointly file with the arbitrator
45 stipulations setting forth such disputed issues the parties have agreed
46 are to be withdrawn from arbitration. Not later than fourteen days

47 after the conclusion of the taking of testimony, the parties may file
48 with the arbitrator written briefs including their last best offer on each
49 unresolved issue and, where possible, estimates of the costs of
50 resolution of each disputed issue. Immediately upon receipt of both
51 briefs or upon the expiration of the time for filing such briefs,
52 whichever is sooner, the arbitrator shall distribute a copy of each such
53 brief to the opposing party. Not later than seven days after receipt of
54 the opposing briefs on the disputed issues or not later than seven days
55 after the expiration of the time for filing such briefs, whichever is
56 sooner, the parties may file with the arbitrator a reply brief,
57 responding to the briefs on the unresolved issues. Immediately upon
58 receipt of both reply briefs or upon the expiration of the time for filing
59 such briefs, whichever is sooner, the arbitrator shall distribute a copy
60 of each such brief to the opposing party.

61 (4) Not later than twenty days after the last day for filing reply
62 briefs, the arbitrator shall make an award on each unresolved issue as
63 well as the issues resolved by the parties during the arbitration
64 proceedings. The arbitrator shall immediately and simultaneously
65 distribute a copy of the award to each party. In making such award,
66 the arbitrator shall select the more reasonable last best offer proposal
67 on each of the disputed issues based on the factors in subdivision (5) of
68 this subsection. The arbitrator shall (A) give a decision as to each
69 disputed issue considered, and (B) state with particularity the basis for
70 such decision as to each disputed issue and the manner in which the
71 factors enumerated in subdivision (5) of this subsection were
72 considered in arriving at such decision.

73 (5) The factors to be considered by the arbitrator in arriving at a
74 decision are: (A) The history of negotiations between the parties
75 including those leading to the instant proceeding; (B) the existing
76 conditions of employment of similar groups of employees; (C) the
77 wages, fringe benefits and working conditions prevailing in the labor
78 market; (D) the overall compensation paid to the employees involved
79 in the arbitration proceedings, including direct wages compensation,

80 overtime and premium pay, vacations, holidays and other leave,
81 insurance, pensions, medical and hospitalization benefits, food and
82 apparel furnished and all other benefits received by such employees;
83 (E) the present ability of the employer to pay; (F) the state's ability to
84 fund increases in employee wages and benefits by adjusting the rates
85 paid to the employer by the state; (G) changes in the cost of living; and
86 (H) the interests and welfare of the employees.

87 (6) The award of the arbitrator shall be final and binding upon the
88 employer and the employee organization, except that a motion to
89 vacate or modify such award may be filed in the superior court for the
90 judicial district of Hartford not later than thirty days following receipt
91 of such award. The court, after hearing, may vacate or modify the
92 award if substantial rights of a party have been prejudiced because
93 such award is: (A) In violation of constitutional provisions; (B) in
94 excess of the statutory authority of the arbitrator; (C) made upon
95 unlawful procedure; (D) affected by other error of law; (E) clearly
96 erroneous in view of the reliable, probative and substantial evidence of
97 the whole record; or (F) arbitrary or capricious or characterized by
98 abuse of discretion or clearly unwarranted exercise of discretion.

99 (d) If the arbitrator's award provides for increases in employee
100 wages or fringe benefits which the arbitrator finds are beyond the
101 employer's present ability to pay, the Office of Policy and Management
102 shall adjust the employer's reimbursement rate to the extent necessary
103 to fund the increased levels of wages or fringe benefits awarded by the
104 arbitrator.

105 (e) The arbitrator's fees and itemized expenses, the rental, if any, of
106 the facilities used for the hearing and the cost of the transcript, if any,
107 of the proceedings shall be divided equally between the employer and
108 the employee organization.

109 (f) Any or all of the timing requirements established in this section
110 may be waived by agreement of the parties or by request of the
111 arbitrator.

LAB Committee Vote: Yea 8 Nay 4 JF C/R PH